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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

CLAIRE BINCI,
Plaintiff,
v.
ALASKA AIRLINES, INC., an Alaska
Corporation,
Defendant.

No.: 3:21-cv-1012

NOTICE OF REMOVAL OF CIVIL
ACTION TO FEDERAL COURT

I. NOTICE OF REMOVAL

Please take notice that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Alaska Airlines, Inc. (“Alaska”), hereby removes this action from State Court to this Court.

II. PLAINTIFF’S ALLEGATIONS

Plaintiff Claire Binci alleges that, on June 5, 2019, she was a ticketed passenger on flight 1372 from Portland, Oregon to San Francisco, California. Ex. 1 (Compl.), at ¶ 3. According to the Complaint, a seat back from the passenger seat directly in front of Plaintiff “abruptly and forcefully reclined without warning, striking her head, and causing [Plaintiff’s] injuries and damages. *Id.* at ¶ 6. Plaintiff alleges that Alaska was negligent in the following ways:

- a. In failing to appreciate plaintiff Claire Binci's location and position while seated and the risk posed by the seat back of the passenger seat directly in front of plaintiff Claire Binci when it abruptly and forcefully reclined;
- b. In failing to use reasonable safeguards to prevent the abrupt and forceful reclining of the seat back of the passenger seat directly in front of plaintiff Claire Binci's assigned seat; and,
- c. In failing to warn plaintiff Claire Binci of the hazard of an abruptly and forcefully reclined seat back of the passenger seat directly in front of her.

Id. at ¶ 7(a)-(c). Plaintiff alleges the seat back caused injuries, and seeks recovery for past and future medical expenses, as well as non-economic damages. *Id.* at ¶¶ 8–10. Plaintiff pleaded damages totaling \$252,025.69. *See* Ex. 1 (Compl.), at ¶ 10.

III. PROCEDURAL REQUIREMENTS

A. Timeliness of Removal

Plaintiff served a copy of her summons and complaint via certified mail on Alaska's registered agent for service of process in the State of Oregon, Corporation Service Company, on June 10, 2021. Declaration of John T. Fetter, ¶ 2, Ex. A (Declaration of Service on Defendant Alaska Airlines). Removal is timely under 28 U.S.C. § 1446(b) because fewer than 30 days have passed since service on Alaska. Accordingly, this Notice of Removal of Civil Action to Federal Court ("Notice of Removal") is timely, as it falls within the 30-day window of 28 U.S.C. § 1446(b).

B. Judicial Division

Removal to the United States District Court for the District of Oregon, Portland Division, is proper because Plaintiff's claims arise from alleged conduct on a flight that departed from Multnomah County and because Plaintiff filed the state court action in the Circuit Court of Multnomah County, which is a county that this judicial division embraces. *See* Ex. 1 (Compl.), at ¶ 1; 28 U.S.C. §§ 1441, 1446.

C. Notice

In accordance with 28 U.S.C. § 1446(d) and Local Rule 3-5(c), Alaska will promptly give notice to Plaintiff that this action has been removed to this Court, will serve Plaintiff with any documents issued by the Clerk of this Court, and will file a copy of this Notice of Removal and the exhibits attached thereto with the Circuit Court of Oregon for Multnomah County.

D. State Court Pleadings

Attached as exhibits 1–3 to this Notice of Removal are the following pleadings associated with the case as filed in the Circuit Court of Oregon for Multnomah County:

Exhibit 1: Complaint.

Exhibit 2: Summons.

Exhibit 3: Declaration of Service on Defendant Alaska Airlines.

E. Non-Waiver

By filing this Notice of Removal, the Alaska does not waive, but rather expressly reserve all rights, defenses, and objections of any nature that it may have to Plaintiff's claims, including but not limited to defenses of improper service of process and jurisdiction.

F. Grounds for Removal

This is a civil suit over which this Court has original jurisdiction under 28 U.S.C. § 1332 (diversity jurisdiction) and, thus, is one that may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441. Diversity jurisdiction exists where the amount in controversy exceeds \$75,000 and complete diversity of citizenship exists between the parties. 28 U.S.C. § 1332. Both requirements are satisfied based on the allegations of the Complaint.

1. Amount in Controversy

Plaintiff's Complaint expressly states that she seeks damages against the defendants in the amount of \$52,025.69 in economic damages, and \$200,000 in non-economic damages, totaling \$252,025.69. *See* Ex. 1 (Compl.), at ¶¶ 8–10. The amount placed in controversy by Plaintiff's Complaint, therefore, exceeds the \$75,000 jurisdictional threshold of 28 U.S.C. § 1332.

2. Diversity of Citizenship

Based on the allegations in the Complaint, Plaintiff was and is a citizen of the State of Oregon, residing in Multnomah County. Ex. 1 (Compl.), at ¶ 1.

Alaska Airlines, Inc., is incorporated in the State of Alaska with its headquarters and principal place of business in Seattle, Washington. Fetters Decl., ¶ 3, Exs. B and C.

Therefore, this Court has original jurisdiction over this action on the basis of diversity jurisdiction, 28 U.S.C. § 1332, and, pursuant to 28 U.S.C. §§ 1441, 1446, this case is properly removable.

IV. CONCLUSION

Alaska Airlines provides notice that this action, pending in the Multnomah County Circuit Court as *Binci v. Alaska Airlines*, Cause No. 21CV22804, is hereby removed to this Court.

DATED this 9th day of July 2021.

STOKES LAWRENCE, P.S.

By: */s/John Fetter*

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CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Collin C. McKean
McKean Smith
1140 SW 11th Avenue, Suite 500
Portland, OR 97205
collin@mckean smithlaw.com

I further certify that I mailed a true and correct copy of the foregoing to the following non-CM/ECF participant:

N/A

DATED this 9th day of July, 2021.

/s/Linda McIntosh Wheeler
Practice Assistant